

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 18-32) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention, as now claimed, provides an interactive ball game that includes a ball and a screen, upon which the interactive ball game is displayed, with the screen acting as a target for the ball. The invention further includes means for player interaction with the ball for permitting a player to strike the ball and directing motion of the ball toward the screen for simulating player participation in the interactive ball game; there being means for preventing the ball from actually hitting the screen and causing damage thereto. The means for player interaction, as now claimed, does not include a “data inputting device,” such as a joystick or similar control device. The motion of the ball after being struck by the player is monitored, or sensed, by ball sensing means for detecting motion of the ball as the ball passes through the ball sensing means, which includes software for determining the trajectory of the ball and the given player's level of success in the interactive ball game relative to the target. In sharp contrast to prior art gaming devices, means are provided for allowing the interactive ball game of the present invention to react to the trajectory of the ball and the player's level of success, as determined by the ball sensing means, for permitting the interactive ball game to challenge, or compete against, an effort by the player to win the interactive ball game depending upon the given player's detected level of success.

The presently claimed invention provides, for example, an interactive display video, when the interactive ball game is football, which shows an attempt by “opposing” team players to block the football when, for example, a kick is being attempted. The ball game played, of course, does not have to be football; rather, any type of ball game can be adapted for use in connection with the present invention. It is therefore an important feature of the present invention, as now claimed, that the software used for playing the interactive electronic ball game continually waits for a ball to be kicked, hit or thrown by the respective physical movements of the player, rather than by the player using a data inputting device, such as a joystick or keyboard. When the ball sensing means detects the motion of the ball moving toward the screen, the screen displays existing video, or “existing game graphics,” in response to “ball behavior algorithms” to create images and, thus, interactive games, from existing game content videos. (*See, e.g.,* Applicant’s *Specification* at Page 6, lines 16-20; FIG. 2)

The nature of Applicant’s claimed interactive electronic ball game is therefore vastly different from other types of electronic ball games, which simply detect the motion of a ball and project on a screen, having a scenic game course, the likely path that the ball will follow – or would have followed – had the play been on a real playing course, such as a golf course, or use a conventional joystick or similar device to “provoke” a reaction from a virtual player on a computer screen.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and challenging interactive electronic ball game, which provides responsive video

displays in reaction to the trajectory of a ball hit by a player, and that is responsive to the player's physical movements without use of a data inputting device, such as a joystick, either disclosed or suggested.

By the present amendment, Applicant has amended independent Claim 18 (and all remaining claims via dependency) to now recite that the means for player interaction does not include a "data inputting device," which would be a joystick or similar control device. Subject matter support for entry into the claims of the term "data inputting device" is submitted to exist in Applicant's *Abstract*, which provides, in relevant part, that "a ball projected by a player provides input to the interactive game, which would otherwise be provided by a joystick or similar control device. . . ." (emphasis added) The current *Abstract* was entered, via the *Preliminary Amendment*, filed October 10, 2006, and incorporates language from Applicant's claims as pending during the corresponding P.C.T. international stage of this §371 National Phase patent application.

In French *et al.*, U.S. Patent No. 6,308,565 (at Col. 8, lines 37-42), this prior art citation uses the term "data inputting device" to generically describe, and include, a joystick, track pad, keyboard, mouse, track ball, touch-sensitive video screen and the like. Consequently, Applicant' use of the prior art terminology "data inputting device," to refer to "a joystick or similar control device," is contended to be proper and does not raise an issue of "new matter" via amendment.

Accompanying the present *Amendment in Response to the Final Office Action*, Applicant is filing a *Request for Continued Examination* and formal *Petition for a Three-*

*Month Extension of Time* for response, and remitting all required fees. Accordingly, the “finality” of the last Office Action should be withdrawn and the foregoing amendment presented herein entered, and considered on its merits, as a matter of right.

Turning now, in detail, to an analysis of the Examiner’s prior art rejection, in the final Office Action the Examiner has now rejected independent Claim 18 (and various dependent claims) as being obvious, pursuant to 35 U.S.C. §103(a), over Bair *et al.*, U.S. Patent No. 5,846,139, taken in view of Curchod, U.S. Patent No. 5,221,082, and in further view of French *et al.*, U.S. Patent No. 6,308,565. It is the Examiner’s contention that the primarily-applied reference of Bair *et al.* teaches an interactive ball game in which a ball is projected by a player that provides input, or motion, for the interactive game ball, which includes a ball and a screen upon which the interactive ball game is displayed with the screen acting as a target in Bair *et al.*. The Examiner correctly notes that Bair *et al.* does not disclose means for preventing the game ball from hitting the screen – a feature for which the Examiner has secondarily applied Curchod.

The Examiner then proceeds to explain that Bair *et al.*, as modified by Curchod, is silent on providing “means for reacting by said interactive ball game to the trajectory of said ball and the player’s level of success, as determined by said ball sensing means, for permitting said interactive ball game to challenge, or compete against, an effort by the player to win.” The Examiner has therefore applied French *et al.* for the contended teaching of a system and method for subjecting a player to a type and frequency of sport-specific dynamic cues requisite to creating an accurate analog of “actual sports competition.”

The Examiner has therefore concluded that Applicant's invention would be obvious when the means for reacting to an interactive ball game, as taught by French *et al.*, is combined with the contended teaches of Bair *et al.* and Curchod.

In reply to the Examiner's 35 U.S.C. §103(a) obviousness rejection, which applies Bair *et al.*, taken in view of Curchod and French *et al.*, Applicant and the Examiner would appear to be in agreement that Bair *et al.*, taken in view of Curchod, fails to teach or suggest any "means for reacting" to an interactive ball game based upon the trajectory of the ball and the player's level of success. Specifically, it is Applicant's position that neither Bair *et al.* nor Curshod provide a simulation system, an interactive electronic ball game, in which the video display seeks to challenge, or compete against, the player in response to the manner by which the player has struck the game ball. Each of the simulation devices of Bair *et al.* and Curshod simply shows where a golf ball might land on a simulated golf course. There is no "counter," or opposing, action taken in the video display of either Bair *et al.* nor Curchod in response to the trajectory of the ball hit by the player – the golf course does not try to "block the hole" the way Applicant's claimed invention would seek to have a video display showing an opposing team's players who might try to block (or at least attempt to block) a football kicked by the player.

In French *et al.*, the situation is precisely opposite that of Bair *et al.* and Curchod: French *et al.* teaches a game that is interactive by having a "virtual opponent" react – not to the human player's movements – but to a person's manipulation of a "data inputting device," such as a joystick. There is no teaching or suggestion in French *et al.* of replac-

ing the “non-human” data inputting device with the physical movements of a person that causes the computer-simulated game to react to a sporting (or physical) activity of the human player, such as throwing a ball.

Combining the teachings and suggestions of French *et al.* with Bair *et al.* and Curchod could not properly yield, nor render obvious, that now claimed by Applicant, because Bair *et al.* and Curchod teach a computer-simulated graphic device that simply tracks, or projects, the anticipated path of an object struck by a player, such as a ball, without there being any reaction to ball. French *et al.* creates a “virtual player” that reacts only to the input of computer commands via a joystick or other data inputting device; there is no reaction to anything the player physically does in that taught by French *et al.* (other than via use of a data inputting device) and the “reaction” received by one using the French *et al.* device is no different than a person typing in commands on a keyboard and seeing feedback in the form of computer-generated graphics. In this respect, French *et al.*, for the teaching that it has been applied against Applicant’s claims by the Examiner, is no different than many video games in which an on-screen character reacts to inputted commands using, perhaps most commonly, a joystick.

French *et al.* is submitted to be further removed from Applicant’s invention than that taught by Bair *et al.* or Curchod, which at least teach physical player participation. Combining the three applied references to arrive at that now claimed by Applicant would require hindsight reconstruction of the applied art, which otherwise fails to disclose or suggest an interactive ball game in which a player physically participates in the game via

the physical movements of the player and receives a corresponding (or competitively opposing) reaction simulated by the gaming device. None of the references applied by the Examiner teach or suggest an “actual sports competition.”

In light of the foregoing, it is respectfully contended that the Examiner’s 35 U.S.C. §103(a) obviousness rejection of the final Office Action, which applies Bair *et al.*, taken in view of Curshod and French *et al.*, has now been overcome and it is respectfully requested that the issued obviousness rejection be withdrawn.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 18-32) recite a novel and challenging interactive electronic ball game, which provides responsive video displays in reaction to the trajectory of a ball hit by a player, and that is responsive to the player’s movements without use of a data inputting device, such as a joystick, which is patentably distinguish-

able over the prior art. Accordingly, withdrawal of the outstanding rejection and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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- Enc.: 1. Petition for Three-Month Extension of Time for Response;  
2. *Request for Continued Examination*, pursuant to 37 C.F.R. §1.114; and,  
3. EFT for \$980.00 (*Request for Continued Examination* + Three-Month Extension Fee).

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.